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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,308	07/26/2001	Mitsuhiro Shimazu	VX012328	4960
21369	7590	03/10/2004	EXAMINER	
VARNDELL & VARNDELL, PLLC 106-A S. COLUMBUS ST. ALEXANDRIA, VA 22314			HAVAN, THU THAO	
			ART UNIT	PAPER NUMBER
			2672	8

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/912,308

Applicant(s)

SHIMAZU ET AL.

Examiner

Thu-Thao Havan

Art Unit

2672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 6-10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **6-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Akiyama et al. (US patent no. 6,674,485).

Re claim **6**, Akiyama discloses a display screen containing a background portion and a display portion (col. 2, lines 47-67) and change means for changing the difference in at least one of brightness, saturation and hue between the individual display colors of background portion and display portion at the same time (col. 10, lines 19-52). In other words, Akiyama teaches image composite measuring hue, saturation, and brightness of the light panels provided behind the subject. A display device with an image compositing means for comparing and correcting saturation, hue, and brightness distributions of the background image. In that the CPU further compares and corrects the hues, the brightness and the saturation of the subject image with respect to those of the back screen color (i.e., the color of the flat luminous boards). Then, the CPU

composites the subject image with a desired image according to the program stored in the memory.

Akiyama does not specifically disclose a display device disposed in a cabin of a construction machine. However, various modifications will be apparent to and can be readily made by those skilled in the art without departing from the display device of Akiyama. Akiyama discloses a display device provides an image composite capable of producing a natural composite image. It would have been obvious for one of ordinary skill in the art to have a display device disposed in a construction machine because it would have enable the user to have a display device with a display screen means with change means due to difference in brightness, saturation, and hue (col. 2, lines 1-30).

Re claims **7-8**, Akiyama discloses change means changes the brightness, saturation or hue of such one of the display colors of background portion or display portion which occupies the larger area on display screen (col. 11, line 10 to col. 12, line 37; figs. 6 and 12).

Re claim **9**, Akiyama discloses an illumination switch for turning an illumination on and off wherein in response to the ON/OFF of illumination switch the brightness, saturation or hue of either the display colors of background portion or display portion, or the display color of background portion and display portion is changed (fig. 5).

Re claim **10**, the limitations of claim 10 are identical to claim 1 above except for illuminance detecting means. Therefore, claim 10 is treated the same as discussed with respect to claim 1 above. Akiyama discloses illuminance detecting means when he

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discloses the illuminance of the flat luminescent boards may be adjusted according to various exposure conditions (col. 4, lines 51-55; col. 15, lines 63-67).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bolle et al., US patent no. 6,668,078

Bollman et al., US patent no. 5,289,297

Young, US Patent No. 5,852,673

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu-Thao Havan whose telephone number is (703) 308-7062. The examiner can normally be reached on Monday to Thursday from 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on (703) 305-4713.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Thu-Thao Havan
Art Unit: 2672
March 4, 2004



MICHAEL RAZAVI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600